

**HUMAN SERVICES DEPARTMENT[441]**

**Adopted and Filed Emergency After Notice**

**Rule making related to average cost of nursing facility services and average charges and maximum Medicaid rate for institutional care**

The Human Services Department hereby amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is adopted under the authority provided in Iowa Code section 249A.4.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code section 249A.4.

*Purpose and Summary*

This rule making amends subrule 75.23(3) to increase the statewide average cost of nursing facility services to a private-pay person. The figure is being revised to reflect the increase in the cost of private-pay rates for nursing facility care in Iowa. The change is not related to rates paid by Medicaid for nursing facility care.

The figure is used to determine the period of ineligibility when an applicant or recipient transfers assets for less than fair market value. When assets are transferred to attain or maintain Medicaid eligibility, the individual may be ineligible for Medicaid payment of long-term care services for a period of time. The period of ineligibility is determined by dividing the amount transferred by the statewide average cost of nursing facility services to a private-pay person.

The Department conducted a survey of the freestanding nursing facilities, hospital-based skilled facilities, and special population facilities in Iowa to update the statewide average cost for nursing facilities. The average monthly private-pay cost of nursing facility services increased from \$6,269.63 to \$6,447.54.

This rule making also amends subparagraphs 75.24(3)“b”(1), (2) and (4) to adjust the average charges for nursing facilities and psychiatric medical institutions for children (PMICs) and to update the maximum Medicaid rate for intermediate care facilities for persons with an intellectual disability (ICF/IDs). These figures are used to determine the disposition of the income of a medical assistance income trust (MAIT).

Nursing facility amounts are not related to the rates paid by Medicaid for nursing facility care. For this purpose, the Department’s survey for statewide average private-pay charges at the nursing facility level of care included only the freestanding nursing facilities in Iowa. Hospital-based skilled facilities and special populations units were not included in the survey since recipients are allowed to use the average cost of the specialized care.

The average charges for PMICs are based on the average statewide charge to a private-pay resident of a psychiatric medical institution for children.

The increases in these amounts will allow additional individuals to qualify for medical assistance by decreasing the period of ineligibility for a transfer of assets and allowing additional individuals to qualify for medical assistance with MAITs because the income limit at which all income assigned to a MAIT is considered to be available for Medicaid eligibility purposes is increased.

The average statewide charge to a resident of a mental health institute (MHI) is addressed in a separate rule making (see **ARC 3870C**, IAB 7/4/18).

### *Public Comment and Changes to Rule Making*

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on April 25, 2018, as **ARC 3760C**. No public comments were received. No changes from the Notice have been made.

### *Reason for Waiver of Normal Effective Date*

Pursuant to Iowa Code section 17A.5(2)“b”(1)(b), the Department also finds that the normal effective date of this rule making, 35 days after publication, should be waived and the rule making made effective on July 1, 2018, because the amendments confer a benefit on the public. The average costs, average charges, and maximum Medicaid rate are increased, allowing more individuals to be eligible by decreasing the period of ineligibility due to transfer of assets and allowing more individuals to be eligible with a MAIT.

### *Adoption of Rule Making*

This rule making was adopted by the Council on Human Services on June 13, 2018.

### *Fiscal Impact*

An increase in the statewide average cost used to determine the period of ineligibility for long-term care services due to a transfer of assets may increase Medicaid expenditures because the period of ineligibility for transfers will be shorter. Given the marginal nature of this change, coupled with the level of income required in order to be impacted, any fiscal impact would be minimal.

The change in the average statewide charges and maximum Medicaid rate used for disposition of MAITs may increase Medicaid expenditures by allowing more individuals to become eligible by establishing a MAIT. Given the marginal nature of this change, coupled with the level of income required in order to be impacted, any fiscal impact would be minimal.

### *Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

### *Waivers*

These amendments do not contain waiver provisions because they confer a benefit. Everyone should be subject to the same amounts set by this rule making. Individuals may request an exception pursuant to the Department’s general rule on exceptions to policy at rule 441—1.8(17A,217).

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

### *Effective Date*

This rule making became effective on July 1, 2018.

The following rule-making actions are adopted:

ITEM 1. Amend subrule 75.23(3) as follows:

**75.23(3) *Period of ineligibility.*** The number of months of ineligibility shall be equal to the total cumulative uncompensated value of all assets transferred by the individual (or the individual’s spouse) on or after the look-back date specified in subrule 75.23(2), divided by the statewide average private-pay

rate for nursing facility services at the time of application. The department shall determine the average statewide cost to a private-pay resident for nursing facilities and update the cost annually. For the period from July 1, ~~2017~~ 2018, through June 30, ~~2018~~ 2019, this average statewide cost shall be ~~\$6,269.63~~ \$6,447.54 per month or ~~\$206.24~~ \$212.09 per day.

ITEM 2. Amend paragraph **75.24(3)“b,”** introductory paragraph, as follows:

*b.* A trust established for the benefit of an individual if the trust is composed only of pension, social security, and other income to the individual (and accumulated income of the trust), and the state will receive all amounts remaining in the trust upon the death of the individual up to the amount equal to the total medical assistance paid on behalf of the individual. For disposition of trust amounts pursuant to Iowa Code sections 633C.1 to 633C.5, the average statewide charges and Medicaid rates for the period from July 1, ~~2017~~ 2018, to June 30, ~~2018~~ 2019, shall be as follows:

ITEM 3. Amend subparagraphs **75.24(3)“b”(1), (2) and (4)** as follows:

(1) The average statewide charge to a private-pay resident of a nursing facility is ~~\$5,829~~ \$6,005 per month.

(2) The maximum statewide Medicaid rate for a resident of an intermediate care facility for persons with an intellectual disability is ~~\$29,240~~ \$31,529 per month.

(4) The average statewide charge to a private-pay resident of a psychiatric medical institution for children is ~~\$7,999~~ \$9,088 per month.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 7/4/18.